

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on January 25, 2001 at
3 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Joe Balyeat, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Ronald Devlin (R)
Rep. Tom Facey (D)
Rep. Nancy Fritz (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Larry Jent (D)
Rep. Jeff Laszloffy (R)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Allen Rome (R)
Rep. Jim Shockley (R)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Brett Tramelli (D)

Members Excused: None.

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 325, 1/27/2001
Executive Action: HB 325, HB 215; HB 258

HEARING ON HB 325

Sponsor: REPRESENTATIVE RICK LAIBLE, HD 59, WESTERN MONTANA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE RICK LAIBLE, HD 59, WESTERN MONTANA, said that HB 325 is an act providing that a canoe or kayak that is propelled by wind is not a sailboat subject to a fee. It is a Bill about fairness. The fiscal note indicates the fiscal impact to the general fund is \$355 for the year, or \$6.34 per county. This Bill does not address those canoes or kayaks that have motors; those would still be required to be licensed. As the process was explained, someone would have to apply for a serial number @ \$1.00, county fee certificate of ownership @ \$5.00, county certificate of identification @ \$2.50, get numbers and put on side of canoe, annual license fee decal @ \$7.50 and must re-register canoe every year. If sell the canoe, must go through the same requirements as if it were a sail boat, i.e., the re-registration transfer of ownership. This is for a basic canoe that happens to be adapted for sail. The amount of time, effort and money that goes into registering these crafts is not worth the cost to the county or to the individual trying to use the canoe. Would not use under permanent conditions; would only use the sail to run downwind. We are only one of two Western states requiring registration; South Dakota is the only other one. Please vote yes on HB 325.

CHAIRMAN FUCHS stated, the committee has not received a copy of the Fiscal Note. **REPRESENTATIVE LAIBLE** made his copy available and copies will be given to the committee at the next meeting **EXHIBIT(fih20a01)**.

Questions from Committee Members and Responses:

REPRESENTATIVE BALYEAT asked that the Fiscal Note be passed around to the committee members.

Closing by Sponsor:

REPRESENTATIVE LAIBLE stated he would appreciate a yes vote, as it seemed to be a big issue in his district.

Hearing on HB 325 closed.

REPRESENTATIVE BARRETT asked for a map of the regions in the state. FWP will furnish maps of all the regions to the committee.

EXECUTIVE ACTION ON HB 215

Discussion:

REPRESENTATIVE SHOCKLEY moved **Amendments on HB 215 DO PASS.**

Amendments are explained by **Legislative Staffer Doug Sternberg, EXHIBIT(fih20a02)**. Essentially what the amendments do is change the language, the word primitive has been eliminated. Instead, the sites are being designated as fishing access sites subject to limited development. Reference to sites on lakes is removed. Language is added that stipulates what will be allowed at each site.

REPRESENTATIVE SHOCKLEY said he hopes the amendments will take care of many of the concerns. The word primitive had a connotation that really does not apply to these sites. Limited development is a much more accurate term. These are sites the department is not going to spend more money on. If they spend more money there is more maintenance, more vandalism, volunteers to keep track of the tickets, etc. **REPRESENTATIVE SHOCKLEY** said having to remove the words lakes and ponds is his fault, he meant to tell Doug to remove it a long time ago. Lakes and ponds are just not accurate or appropriate for our purposes. Language was added, such as weed control, erosion control, and stream bank stabilization because they feel the state should be as good a steward of the land as private landowners are.

REPRESENTATIVE CLARK stated you are maintaining your basic idea with a few adjustments, such as the off road vehicles. Basically you are saying you can drive your off road vehicle down into the fishing area and park it by the creek. You can get off and go down into the water and fish in the creek. Is that right?

REPRESENTATIVE SHOCKLEY said, yes. **REPRESENTATIVE CLARK** asked if the parks have any guidelines regarding what kind of off road vehicle use we are talking about. They wouldn't be able to do 360's and figure eights in the fishing area would they?

REPRESENTATIVE SHOCKLEY said the control would be with the agency by rule. If there is any need for control, he feels that by good faith the agency will do so.

REPRESENTATIVE BALLYEAT stated, he had conversation with **former Representative Bob Raney**, who said there are already other laws dealing with off road vehicles and restricting them, and this Bill is redundant. That may be part of the reason the sponsor decided to take it out of Bill.

CHAIRMAN FUCHS stated, regarding #27, Page 3, line 23; adding erection of natural barriers necessary to preserve riparian vegetation and habitat. Is that going to change the Fiscal Note? Can you use future fisheries money for this type of thing? **Chris Smith, FWP** deferred to **Larry Peterman, Administrator of Fisheries, FWP**. **CHAIRMAN FUCHS** repeated the question. **Larry Peterman, FWP** answered he doesn't think it will affect the Fiscal Note because these are activities normally budgeted for fishing access sites. Doesn't think there is an additional burden by adding this in.

Motion: **REP. SHOCKLEY** moved that **AMENDMENT TO HB 215 DO PASS**.

REPRESENTATIVE FACEY stated, Page four, Section five of the bill prohibits assignment of campground hosts. Predicts vandalism will go up. If this is an appropriate place to watch for vandalism, should we prohibit that? Having this section takes away some department flexibility. Are there many hosts that take advantage of this program? **Chris Smith, FWP** said, I am not aware of hosts staying at the sites that are listed that would remain on the list. **REPRESENTATIVE FACEY** stated he had no amendments.

REPRESENTATIVE BARRETT stated, on Page two, 41 sites appear to be in my region, is concerned if anyone in her region knows about this and had any input. Or with this Bill, would be precluded from having input. Sponsor wants us to control FWP with this Bill, but we are allowing them to designate additional sites.

REPRESENTATIVE SHOCKLEY stated **Bob Raney** went to these sites and these have been filtered through the Senate and conference committee. You represent the people in your district and you are their voice. This Bill allows the department to expand to more sites, and hearings will be held for local input at that time.

REPRESENTATIVE GALLUS stated, from experience it is the difference between legal access and easy access which does add to the congestion we see on rivers and streams. Uses limited access sites to get away from people and stay from "boat parades".

REPRESENTATIVE CLARK stated, my impression is that it protects the status quo at these sites, so its not like we are designating new sites. **REPRESENTATIVE SHOCKLEY** said, this does not create sites that do not exist, it just limits the development.

REPRESENTATIVE RICE stated, are you familiar with the wildlands project where 50% of the western U.S. is to be re-wild and turned back to pre-Columbian time where there is limited and no use in many areas? **REPRESENTATIVE SHOCKLEY** said he had no connection with those people. **REPRESENTATIVE RICE** asked, why we would want to designate so many as primitive? **REPRESENTATIVE SHOCKLEY** said, this is a large state, so there are a lot of sites.

REPRESENTATIVE DEVLIN said, you stated you had not visited these sites. Of the sites I am familiar with, region seven, I would want some development on most of them. Testimony says FWP can do this now, but you think it is better for us to blanket a number of sites we are not familiar with. Yet the sites I am familiar with, I would ask to have removed from this list. Why are we doing this? **REPRESENTATIVE SHOCKLEY** said, if you want to make amendments that is your right, but if you think the whole concept is bad, I encourage you to vote against it. When it comes to local control, there is only input. It is either control by the agency or control by the legislature. Want to stop development of these sites into KOA. Can change in the future if necessary.

REPRESENTATIVE GALLUS clarifies that #445 got through the Legislature and was vetoed by the Governor.

CHAIRMAN FUCHS stated we need to vote; the intent of the Bill is to preserve some areas to avoid commercialization.

Motion/Vote: REP. SHOCKLEY moved that HB 215 DO PASS AS AMENDED. Motion carried 12-7.

EXECUTIVE ACTION ON HB 258

REPRESENTATIVE CLARK moved Amendment to HB 258 DO PASS, EXHIBIT (fih20a03).

Discussion:

REPRESENTATIVE CLARK said it takes out the special tags and takes the appropriation directly from FWP special appropriation fund. **Legislative Staffer Doug Sternberg** clarified the amendments. Presently \$120,000 in budget for upcoming biennium that would be delegated to shooting range grants. Department funded \$180,000 in the last biennium. Made straight supplemental appropriation for \$60,000 in this bill, for a total of \$180,000. This would cover the balance not presently in the department's budget.

REPRESENTATIVE LASZLOFFY asked how the funds are disbursed; whether matching or as grants. Doug Sternberg answered grant criteria require matching funds of cash or in-kind.

REPRESENTATIVE BALLYEAT stated he had spoken with the sponsor and had nearly the same amendment, except his contains an increase over the last budget; would like to offer a substitute motion.

CHAIRMAN FUCHS stated they would vote this amendment up or down, then the one from **REPRESENTATIVE BALLYEAT** would be offered.

REPRESENTATIVE SHOCKLEY said he wants to give FWP time to comment since this is a whole new way of funding. **REPRESENTATIVE JENT** moves to postpone action. **CHAIRMAN FUCHS** asked for voice vote. Discussion continues, with vote being not to postpone.

CHAIRMAN FUCHS said that without objection he would ask **Chris Smith**, FWP to comment on funding.

REPRESENTATIVE SHOCKLEY stated, money would be taken out of FWP special fund, so would like comments. **Chris Smith** said FWP has no problem with this language as this would be a biennial appropriation. This would be similar to what happened during the last legislature, so have no objections.

REPRESENTATIVE FACEY asked where the money comes from. **Chris Smith** stated, the special revenue fund is the general license fund; general sportsmen license tags.

Motion/Vote: **REP. SHOCKLEY** moved that **AMENDMENT TO HB 258 DO PASS**. Motion carried unanimously.

REPRESENTATIVE BALLYEAT offers amendment to strike \$60,000 in that section and change it to \$120,000 per biennium.

Substitute Motion/Vote: **REP. BALLYEAT** made a motion that **AMENDMENT TO HB 258 STRIKING the \$60,000 AND SUBSTITUTING \$120,000 DO PASS**. Substitute motion failed 6-13.

Motion/Vote: **REP. SHOCKLEY** moved that **HB 258 DO PASS AS AMENDED**. Motion carried by voice vote, 16-3.

EXECUTIVE ACTION ON HB 325

Motion/Vote: **REP. FACEY** moved that **HB 325 DO PASS**.

Discussion:

REPRESENTATIVE RIPLEY asked about canoes designed and sold with a sail. **CHAIRMAN FUCHS** said, with this Bill, it would still be a canoe, with an option to have a sail. **REPRESENTATIVE BALLYEAT** stated, it says in the Bill on Page Two, Line 27-28, it is a sailboat if its primary source of propulsion is a sail and wind. That is the test. Most people would argue that a canoe's primary source of propulsion is the paddle, since there is no mechanism to steer and a canoe can only go down wind.

Motion: **REP. FACEY** moved that **HB 325 DO PASS**. Motion passed by voice vote, 19-1.

EXECUTIVE ACTION ON HB 306

Motion: REP. BALLYEAT moved that **AMENDMENT 01 ON HB 306 DO PASS.**

Discussion:

Legislative Staffer Doug Sternberg states these are the amendments requested by **REPRESENTATIVE BALLYEAT** and distributed the day of the hearing. Version 01 addresses the effective date section and would make this effective March 1, 2002. This would also delay the fiscal impact of Section One, **EXHIBIT(fih20a04)**.

Version 03 has 36 different amendments, **EXHIBIT(fih20a06)**. Also presented but not discussed were Version 02, **EXHIBIT(fih20a05)**, Version 04, **EXHIBIT(fih20a07)**, and Version 05, **EXHIBIT(fih20a08)**.

CHAIRMAN FUCHS asked for comment from the subcommittee before proceeding and said that **REPRESENTATIVE GUTSCHE** was not present, but had expressed that she was in concurrence with the amendments. **REPRESENTATIVE RIPLEY** said, all the "WHEREAS" are in a separate amendment, and the committee had all agreed on the amendments. **Jean Johnson** stated she appreciated the opportunity to participate and feels this is an excellent compromise.

Motion/Vote: REP. BALLYEAT moved that **AMENDMENT 01 TO HB 306 DO PASS. Motion carried unanimously.**

Motion: REP. BALLYEAT moved that **AMENDMENT 03 TO HB 306 DO PASS.**

Discussion:

REPRESENTATIVE FACEY asked if there was a penalty for the person claiming to be a relative but who is not really a relative?

Legislative Staffer Doug Sternberg stated in order for the nonresident applicant to even qualify for the license they would have to show proof of the degree of consanguinity to the license issuer.

REPRESENTATIVE LASZLOFFY asked about #18, definition of a hunter. Can I take my brother in law on this? **Legislative Staffer Doug Sternberg** answered yes, it applies to both blood and marriage. **REPRESENTATIVE LASZLOFFY** asked what the mechanism is when they are offered on a first come, first serve basis. **Legislative Staffer Doug Sternberg** stated this should be directed to the department, to see how they would administer it.

REPRESENTATIVE BALLYEAT suggested if it is a mail-in application, then they go by the date of the application. **CHAIRMAN FUCHS**

stated this is not in the amendment. **Legislative Staffer Doug Sternberg** said, On Page six, Sub five; department offers Class B licenses for sale by March 15. Language in Section two deals with licenses that are variably priced and set aside, Line 9, Page four, sale period for licenses must be established so that by the last week in the established period, any unsold licenses will be allocated to the commission for a drawing at a price set by the commission. This is the language for dealing with left over licenses, but does not deal with first come first serve question.

CHAIRMAN FUCHS asked **Chris Smith FWP** to provide information as to what the situation would be with the 1,000 licenses. **Chris Smith** stated he had discussed this concept with licensing staff. Two ways to administer on first come basis: 1) Give anyone an opportunity to submit an application for one of these licenses prior to a certain deadline, such as March 15. If we had less than 1,000 by that time, we would continue to take applications as we move forward. The initial supposition was there would likely be more than 1,000 applicants, which would convert this into a drawing. 2) One other option, take advantage of the world wide web using something like EBAY. Sell the licenses beginning at a certain time, and you could have a live sale, on literally a first come, first serve basis. **REPRESENTATIVE LASZLOFY** states he is not comfortable with this, even using EBAY. People are used to the drawings for special permits. He would put that into the form of an amendment if necessary. **REPRESENTATIVE BALYEAT** states, a drawing defeats the purpose of the Bill. The Bill provides guaranteed licenses for relatives who are nonresidents. If the department has authority to implement this Bill, we should let them implement as they see fit. **Chris Smith, FWP** said, for clarification, if a person were unsuccessful in this pool, there is still a pool of unreserved licenses they could put in for.

REPRESENTATIVE CLARK asked for clarification of the definition of relative. **REPRESENTATIVE BALYEAT** replied the subcommittee defined what level of relative they wanted and left it up to **Legislative Staffer Doug Sternberg** to put in the legal terminology that includes both by marriage and by blood. **Doug Sternberg** replied that was his intent, however when he got into the Probate Code, which is the primary place in the Montana Code where it states how closely you are related to the deceased for purposes of the estate, it was more confusing than he was able to work his way through. Not sure this committee wanted to get into this. Applicant must be a first cousin or closer, cousin could be either by marriage or by blood. **REPRESENTATIVE BALYEAT** replied he would like to add an amendment; after the words first cousin or closer, add "by marriage or blood". **REPRESENTATIVE THOMAS** asked if they were excluding adopted children. **REPRESENTATIVE SHOCKLEY** stated in existing statutes adopted

children are treated the same as natural children. It is best to enumerate each one, wife, brother in law, sister in law, etc. Need to be clear so no loop holes will be found. **CHAIRMAN FUCHS** suggested sending this back to subcommittee to work it out. **REPRESENTATIVE BALLYEAT** replied the subcommittee had already defined the relatives as husband, wife, father, mother, daughter, son, aunt, uncle, niece, nephew, by blood or marriage and first cousin. **REPRESENTATIVE JENT** stated if it is defined elsewhere in the Montana Code, we should use that language. **CHAIRMAN FUCHS** said it would be best to postpone this, since there are two amendments behind it. **REPRESENTATIVE BALLYEAT** said he is comfortable with postponing but not with sending it back to subcommittee. **Doug Sternberg** said he will look into defining the relatives more closely. **CHAIRMAN FUCHS** said, before postponing, want to hear from **REPRESENTATIVE GUTSCHE**, who is back in the meeting. **REPRESENTATIVE GUTSCHE** said everyone came together in the subcommittee, and while it may not be perfect they all agreed on it. She was the one who least cared about the relatives, in whatever configuration they are. Didn't think it was necessary, but people like it, so it is fine.

CHAIRMAN FUCHS has a motion from **REPRESENTATIVE GALLUS** to postpone so that **REPRESENTATIVE BALLYEAT** and **Doug Sternberg** can qualify this. We have this Bill with Amendment 01. Will take up from there when we restart Executive Action on HB 306.

Additional Executive Action Postponed on HB 306 until February 1, 2001.

ADJOURNMENT

Adjournment: 4:35 P.M.

REP. DANIEL FUCHS, Chairman

LINDA KEIM, Secretary

DF/LK

EXHIBIT (fih20aad)